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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
08/894,356	08/18/97	ASHIKARI	001560-303

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EXAMINER  
ZAGHARONT, D

ART UNIT  
1649

PAPER NUMBER

DATE MAILED: 09/22/98

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

# Office Action Summary

Application No.  
08/894,356

Applicant(s)  
Ashikari et al

Examiner  
Ousama Zaghm ut

Group Art Unit  
1649

☒ Responsive to communication(s) filed on Aug 18, 1997

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 35 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire three month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claim

☒ Claim(s) 1-27 is/are pending in the applicat

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration

☐ Claim(s) \_\_\_\_\_ is/are allowed.

☐ Claim(s) \_\_\_\_\_ is/are rejected.

☐ Claim(s) \_\_\_\_\_ is/are objected to.

☒ Claims 1-27 are subject to restriction or election requirement.

## Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some\* ☒ None of the CERTIFIED copies of the priority documents have been

☐ received.

☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

☐ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

— SEE OFFICE ACTION ON THE FOLLOWING PAGES —

Art Unit: 1649

**Election/Restriction**

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-12, 20, 22-27 are drawn to nucleic acid molecule encoding acyl group transfer protein, vectors containing it in sense orientation, methods for their use to transform plants, and the resultant plants, classified in class 800, subclass 278 for example.
- II. Claims 13-18, 24 are drawn to acyl group transfer protein, classified in class 530, subclass 300, for example.
- III. Claims 19,21, 24 are drawn to a method for acylating a pigment, classified in class 530 subclass 300 for example.

The inventions are distinct, each from the other because each is drawn to molecularly, physiologically, and biochemically divergent products and processes not required by the other.

The invention of group I involves sense constructs and methods for the evaluation of gene overexpression not required by groups II-III.

The invention of group II involves an isolated protein not required by any other group. Furthermore, the protein could be made by a process other than the expression of the gene of group I, such as chemical synthesis.

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The invention of group III involves acylating a pigment that can be performed by a chemical treatment, not required by inventions of groups I and II.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their divergent subject matter, classification, and fields of search, restriction for examination purposes as indicated is proper.

A telephone call was made to Ms. Donna M. Meuth on September 8, 1998 to request an oral election to the above restriction requirement, but did not result in an election being made.

Applicant is advised that the response to this requirement to be complete must include an election of the invention to be examined even though be traversed (37 CFR 1.143).

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently amendment of inventorship must be accompanied by a diligently-filled petition under 37 CFR 1.148(b) and the fee required under 37 CFR 1.17(h).

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**Future Correspondence**


Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Ousama M-Faiz Zaghmout whose telephone number is (703) 308-9438. The Examiner can normally be reached Monday through Friday from 7:30 am to 5:00 pm (EST).

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Douglas Robinson, can be reached on (703) 308-2897. The fax phone number for the group is (703) 305-3014.

Any inquiry of a general nature or relating to the status of this application should be directed to THE MATRIX CUSTOMER SERVICE CENTER whose telephone number is (703) 308-0196.

Ousama M-Faiz Zaghmout Ph.D.

September 15, 1998



Douglas W. Robinson  
Supervisory Patent Examiner  
Technology Center 1600